

MAY 09 2016

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

UNITED STATES OF AMERICA, ) CASE NO. 7:07CR00078  
) (CASE NO. 7:16CV80912)  
)  
v. ) MEMORANDUM OPINION  
)  
RONNIE DEAN SHELTON, ) By: Hon. Glen E. Conrad  
) Chief United States District Judge  
Defendant. )

Ronnie Dean Shelton, a federal inmate proceeding pro se, has submitted a letter that the court construed and docketed as a motion to vacate, set aside or correct the sentence, pursuant to 28 U.S.C. § 2255, seeking sentencing relief under Johnson v. United States, \_\_\_ U.S. \_\_\_, 135 S. Ct. 2551 (June 26, 2015) (concluding that part of 18 U.S.C. § 924(e) defining “crime of violence” for purposes of federal criminal sentence enhancement is unconstitutionally vague). Pursuant to Standing Order 2015-5 and the provisions of the Criminal Justice Act, 18 U.S.C. § 3006A(a)(1) and (c), the Office of the Federal Public Defender for the Western District of Virginia had been appointed to consult with defendant to determine whether defendant may qualify for federal habeas relief in light of Johnson; however, the attorney who noted an appearance on Shelton’s behalf under that Standing Order has notified the court that she does not intend to submit an amendment to the current § 2255 motion. Upon review of the pending motion and court records, the court concludes that the current § 2255 motion must be summarily dismissed without prejudice as successive.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). Court records indicate that Shelton previously filed a § 2255 motion concerning this same conviction and sentence. United States v. Shelton, Case

No. 7:07CR00078/7:12CV80422, 2012 WL 1606194 (W.D. Va. May 8, 2012) (dismissing § 2255 motion as untimely filed). As Shelton offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, the court must dismiss his current § 2255 motion without prejudice. A separate order will be entered this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to defendant. Defendant is also advised that if he wishes to seek assistance concerning the appropriate legal remedy by which he may pursue any claim available to him under the Johnson decision, he may contact Christine Lee, Office of the Federal Public Defender, 210 1st Street Southwest #400, Roanoke, VA 24011.

ENTER: This 9<sup>th</sup> day of May, 2016.

  
\_\_\_\_\_  
Chief United States District Judge